

**California Regional Water Quality Control Board
Santa Ana Region
Staff Report**

April 15, 2005

ITEM: 28

SUBJECT: Mandatory Penalty Complaint No. R8-2005-0027, RSI Home Products, Mira Loma, Riverside County

BACKGROUND

On March 2, 2005, the Executive Officer issued Mandatory Penalties Complaint (MPC) No. R8-2005-0027 to RSI Home Products, LLC (hereinafter RSI Home Products) for alleged violations of the State General Permit for Storm Water Runoff Associated with Industrial Activity (General Permit). In the MPC (attached), the Executive Officer proposed an assessment of \$1,000 for the alleged violation.

INTRODUCTION

The matter before the California Regional Water Quality Control Board, Santa Ana Region (Board), is whether to adopt Order No. R8-2005-0061 affirming the proposed mandatory penalty complaint against RSI Home Products.

MPC Order No. R8-2005-0027 was issued by the Executive Officer to RSI Home Products for failing to submit an Annual Report as required by the General Permit.

DISCUSSION

The General Permit regulates the discharge of storm water from industrial sites as required under Section 402(p) of the Federal Clean Water Act. Coverage under the permit is obtained by filing a Notice of Intent (NOI), site map, and fee (annual fee of \$700), with the State Water Resources Control Board. One of the requirements of the General Permit is that permittees submit, by July 1 of each year, an annual report that documents: storm water sampling and analysis results; visual observations of facility conditions; the facility's Annual Comprehensive Site Compliance Evaluation; and, a certification as to the accuracy of the submitted information.

The General Permit requires all facility operators to submit an annual report by July 1 of each year. Because Board staff did not receive the annual report by the July 1, 2004 deadline, a Notice of Noncompliance (NNC) was issued to RSI Home Products, by certified mail, on July 26, 2004. When Board staff received no response to the first NNC, a second NNC was issued on September 2, 2004, again by certified mail. The addressee received both letters. In both NNCs, Board staff requested submittal of the completed annual report, a statement explaining why the annual report was not submitted by the July 1 deadline, and the measures that would be taken to ensure that future annual reports are submitted on time. Both NNCs also identified the mandatory minimum penalty for failure

RSI Home Products, (staff report)

to submit the annual report. In the second NNC, Board staff requested submittal of the completed annual report by September 17, 2004.

RSI Home Products failed to submit the required Annual Report to the Regional Board office within 60 days from the date on which the original Notice of Noncompliance was sent. Under these circumstances, Section 13399.33(c) of the California Water Code requires that a mandatory penalty shall be administratively imposed by the Regional Board in an amount that is not less than one thousand dollars (\$1,000).

STATEWIDE ENFORCEMENT POLICY

On February 19, 2002, the State Water Resources Control Board adopted a State Water Quality Enforcement Policy to ensure that enforcement actions throughout the State are fair, firm, and consistent. The above-described mandatory penalties complaint is in accordance with the State Enforcement Policy.

RECOMMENDATION

Board staff recommends that the Board affirm the assessment of \$1,000 specified in the Mandatory Penalty Complaint issued by the Executive Officer on March 2, 2005, by adopting Order No. R8-2005-0061.

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

In the matter of:)	Order No. R8-2005-0061
)	for
RSI Home Products)	Mandatory Minimum Penalty
11350 Riverside Dr.)	
Mira Loma, CA 91752)	
)	
<u>Attention: Mr. David O'Donnell</u>)	

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), held a hearing on April 15, 2005 to receive testimony and take evidence on the allegations contained in Complaint No. R8-2005-0027, dated March 2, 2005, and on the recommendation for the imposition of a mandatory penalty pursuant to Water Code Section 13399.33(c) in the amount of \$1,000. The Board finds as follows:

1. On April 17, 1997, the State Water Resources Control Board (SWRCB) adopted Waste Discharge Requirements, Order No. 97-03-DWQ, (NPDES No. CAS000001), General Permit for Storm Water Discharges Associated with Industrial Activities (Permit). RSI Home Products is authorized to discharge storm water under the Permit, WDID 8 33I014273. The Permit requires RSI Home Products to submit an annual report by July 1 of each year. RSI Home Products did not submit the annual report by July 1, 2004. Subsequently, Board staff sent two certified Notices of Noncompliance (NNCs) to RSI Home Products, the first one on July 26, 2004 and the second one on September 2, 2004. These NNCs reminded RSI Home Products that the annual report had not been received and that there is a mandatory penalty for non-submittal of the annual report. The second NNC required RSI Home Products to submit the annual report by September 17, 2004.
2. RSI Home Products failed to submit the annual report to the Regional Board office within 60 days from the date of the original Notice of Noncompliance.
3. Water Code Section 13399.33(c) requires the Board to assess a mandatory minimum penalty of one thousand dollars (\$1,000) for non-submittal of an annual report under these circumstances.
4. On March 2, 2005, the Executive Officer issued Mandatory Penalty Complaint No. R8-2005-0027 to RSI Home Products proposing that the Board impose the mandatory minimum penalty of \$1,000 on RSI Home Products for the violations cited above.

5. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 2100 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that, pursuant to California Water Code Section 13399.33(c), a mandatory penalty shall be imposed on RSI Home Products, in the amount of \$1,000, as proposed in Complaint No. R8-2005-0027 for the violations cited, payable as set forth below.

1. RSI Home Products shall pay \$1,000 to the State Water Resources Control Board by May 16, 2005.

The Executive Officer is authorized to refer this matter to the Attorney General for enforcement.

Pursuant to Water Code Section 13320, you may petition the State Water Resources Control Board for a review of this Order. If you choose to do so, you must submit the petition to the State Board within 30 days of the Regional Board's adoption of this Order.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on April 15, 2005.

Gerard J. Thibeault
Executive Officer

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

In the matter of:)	Complaint No. R8-2005-0027
)	for
RSI Home Products)	Mandatory Minimum Penalty
11350 Riverside Dr.)	
Mira Loma, CA 91752)	
)	
<u>Attention: Mr. David O'Donnell</u>)	

YOU ARE HEREBY GIVEN NOTICE THAT:

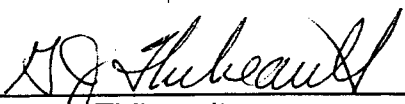
1. You are alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), must impose liability under Section 13399.33 of the California Water Code.
2. A hearing concerning this Complaint will be held before the Board within ninety days of the date of issuance of this Complaint. The hearing in this matter has been scheduled for the Board's regular meeting on April 15, 2005, at the City Council Chambers of Loma Linda, 25541 Barton Road, Loma Linda, California. You or your representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of mandatory penalty by the Board. An agenda for the meeting will be mailed to you not less than 10 days before the hearing date.
3. At the hearing, the Board will consider whether to affirm, reject or modify the proposed Mandatory Penalty Complaint or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. RSI Homes Products (hereinafter RSI Home), located at 11350 Riverside Dr., Mira Loma, California, is currently regulated under the State's General Permit for Storm Water Discharges Associated with Industrial Activities, Water Quality Order No. 97-03-DWQ, NPDES No. CAS000001 (General Permit). The facility's WDID Number is 8 33I014273. The General Permit requires submittal of an annual report by July 1 of each year.
5. Because the annual report was not received by Board staff by the July 1, 2004 deadline, a Notice of Non-Compliance (NNC) was issued to RSI Home, by certified mail, on July 26, 2004. The return receipt showed it was received on July 28, 2004. When Board staff received no response to the first NNC, a second NNC was issued on September 2, 2004, again by certified mail. In the second NNC, Board staff requested submittal of the completed annual report by September 17, 2004. In both NNCs, Board staff requested submittal of the annual report, a statement explaining why the annual report was not submitted by the July 1

WAIVER OF HEARING

You may waive your right to a hearing. If you choose to do so, please sign the attached waiver form and mail it, together with a check or money order payable to the State Water Resources Control Board for \$1,000. The bottom portion of the invoice, the waiver form, and the check or money order should be mailed to Sacramento in the enclosed envelope.

If you have any questions, please call Mr. Michael Roth at 951-320-2027 or Ms. Milasol Gaslan at 951-782-4419. For legal questions, contact the Regional Board's legal counsel, Mr. Jorge Leon at (916) 341-5180.

3/2/05
Date



Gerard V. Thibeault
Executive Officer



State Water Resources Control Board



Alan Lloyd
Secretary for
Environmental
Protection

The energy challenge facing California is real.
Every Californian needs to take immediate action to reduce energy consumption.
For a list of simple ways you can reduce demand and cut your energy costs, see our website at <http://www.swrcb.ca.gov>

Arnold
Schwarzenegger
Governor

To:

RSI HOME PROD
11350 Riverside Dr
Mira Loma, CA 91752-1450

Invoice No: 55925

Invoice Date: 03/02/2005

Enforcement Action ID: 100869

Enforcement Order No: R8-2005-0027

INVOICE

Milestone ID	Description	Amount	Due Date
66477	LIABILITY AMOUNT	\$1,000.00	04/15/2005
TOTAL AMOUNT DUE		\$1,000.00	

California Environmental Protection Agency



Retain above portion for your records

Please return bottom portion with your payment

RSI HOME PROD
11350 Riverside Dr
Mira Loma, CA 91752-1450

Make your check payable to:

State Water Resources Control Board

Mail payment to:

SWRCB ACCOUNTING
ATTN: ENFORCEMENT
P. O. Box 100
SACRAMENTO, CA 95812-0100

Milestone ID	Description	Amount	Due Date
66477	LIABDUE	\$1,000.00	04/15/2005
TOTAL AMOUNT DUE		\$1,000.00	

Amount Enclosed: \$ _____

PLEASE PRINT THE FOLLOWING INVOICE NUMBER ON YOUR CHECK:

55925

Invoice Date: 03/02/2005

Enforcement Action ID: 100869

Enforcement Order No.: R8-2005-0027